

U.S. Appl. No. 09/293,702
Reply to Office Action dated June 30, 2006

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PATENT
450117-4866

SEP 29 2006

REMARKS/ARGUMENTS

Reconsideration and withdrawal of the rejection of the application are respectfully requested in view of the remarks herewith. The present remarks are being made to facilitate prosecution of the application.

I. STATUS OF THE CLAIMS AND FORMAL MATTERS

Claims 1-17 are pending. Claims 1 and 14 are independent. It is submitted that these claims, as originally presented, were in full compliance with the requirements of 35 U.S.C. §112.

II. REJECTIONS UNDER 35 U.S.C. §103(a)

Claims 1-6 and 14-17 were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over U.S. Patent No. 5,878,033 to Mouly (hereinafter, merely "Mouly") in view of U.S. Patent No. 6,067,566 to Moline (hereinafter, merely "Moline").

Claims 7-10 were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Mouly in view of Moline and further in view of U.S. Patent No. 6,157,949 to Cheng, et al. (hereinafter, merely "Cheng").

Claims 11 and 12 were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Mouly in view of Moline and Cheng and further in view of U.S. Patent No. 5,864,854 to Boyle (hereinafter, merely "Boyle").

Claim 13 was rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Mouly in view of Moline and further in view of U.S. Patent No. 6,345,313 to Lindholm (hereinafter, merely "Lindholm").

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Claim 1 recites, *inter alia*:

“A method for determining access times of a plurality of segments of a plurality of broadcast objects in a broadcast channel using a unidirectional communication scheme in order to transmit the plurality of broadcast objects from a server side to a receiver side, each of the plurality of said segments of said plurality of broadcast objects are permitted to (i) have a different size, (ii) be segmented into smaller units in order to allow overlapped transmission or parallel transmission, (iii) be transmitted in a different repetitive pattern, and (iv) be transmitted in a broadcast cycle in different orders,” (Emphasis added)

As understood by Applicants, Mouly relates to transmitting messages which are broadcast successively and at regular intervals to mobile stations on a particular radio channel of the TDMA network. They comprise service messages and schedule messages respectively associated with successive schedule periods, each schedule message including information about the distribution of the service messages which will be broadcast during the associated schedule period. For each service message which will be broadcast during a schedule period, the associated schedule message includes a cue indicating whether this service message has been broadcast during the preceding schedule period. The schedule message furthermore indicates, as the case may be, the broadcasts of service messages which are repetitions of service messages already broadcast during the period.

As understood by Applicants, Moline relates to distributing MIDI tracks across a network using non-real-time protocols such as TCP/IP. Included are techniques for producing MIDI tracks from MIDI streams as the MIDI streams are themselves produced and distributing the MIDI tracks across the network, techniques for dealing with the varying delays involved in distributing the tracks using non-real-time protocols, and techniques for saving the controller state of a MIDI track so that a user may begin playing the track at any point during its distribution across the network.

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Applicants submit that Mouly and Moline, taken either alone or in combination, do not teach or suggest the above identified features of claim 1. Specifically, there is no teaching or suggestion of a method for determining access times of a plurality of segments of a plurality of broadcast objects in a broadcast channel wherein each of the plurality of said segments of said plurality of broadcast objects are permitted to (i) have a different size, (ii) be segmented into smaller units in order to allow overlapped transmission or parallel transmission, as recited in independent claim 1.

The Office Action relies on column 8, lines 27-37 of Mouly to teach the above-identified features of claim 1. However, column 8, lines 27-37 of Mouly merely discloses that "each service message has a length of 88 bytes distributed into 4 blocks of 23 bytes (each including one level-2 byte)". According to the cited portion of Mouly, each message is the same size, whereas claim 1 specifically recites that broadcast objects are permitted to have a different size.

Further, Cheng, Boyle and Lindholm fail to cure the deficiencies of Mouly and Moline.

Furthermore, Applicants respectfully submit that there is no motivation, either in the references themselves, or from the knowledge of one of ordinary skill in the art, at the time the invention was made, to combine the disclosure of Mouly with the teachings of Moline. Additionally, the Office Action asserts on page 3 that "introducing method characterized in that...as taught by Moline in the method of Mouly to reduce latency in terms of providing access to broadcast objects and providing real time collaboration among users via Internet." However, this is a mere wish and hoped-for result, and is not a motivation found anywhere in the prior art of record. Applicants respectfully request that the next Office Action particularly point out the

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motivation, as required in a proper *prima-facie* rejection under 35 U.S.C. §103(a). The correct obviousness standard is a motivation to combine by one of ordinary skill in the art, not whether or not the references teachings are "combinable." See M.P.E.P. §2145 ("The test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference... Rather, the test is what the combined teachings of those references would have suggested to those of ordinary skill in the art.")

Therefore, Applicants submit that independent claim 1 is patentable.

For reasons similar to, or somewhat similar to, those described above with regard to independent claim 1, independent claim 14 is also believed to be patentable.

III. DEPENDENT CLAIMS

The other claims in this application are each dependent on an independent claim discussed above, and are therefore believed patentable for at least the same reasons. Since each dependent claim is also deemed to define an additional aspect of the invention, however, the individual reconsideration of the patentability of each on its own merits is respectfully requested.

CONCLUSION

In the event the Examiner disagrees with any of statements appearing above with respect to the disclosure in the cited reference, or references, it is respectfully requested that the Examiner specifically indicate those portions of the reference, or references providing the basis for a contrary view.

Please charge any additional fees that may be needed, and credit any overpayment, to our Deposit Account No. 50-0320.

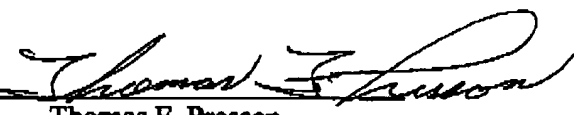
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In view of the foregoing remarks, it is believed that all of the claims in this application are patentable and Applicants respectfully request early passage to issue of the present application.

Respectfully submitted,

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